



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Introduce Revisions to Lodi Municipal Code Section 13.04 Related to Utility Billing
MEETING DATE: January 18, 2012
PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Introduce revisions to Lodi Municipal Code Section 13.04 related to utility billing.

BACKGROUND INFORMATION: Council received information at its December 13, 2011 Shirtsleeve meeting that the current utility billing practices did not conform to the underlying ordinance (Lodi Municipal Code Section 13.04). Staff brought forward the variances between the current practices and the underlying ordinance and proposed a number of changes. Council provided guidance with regard to the proposed changes.

The attached revised ordinance codifies the changes discussed at the December 13, 2011 Shirtsleeve meeting. The primary changes are:

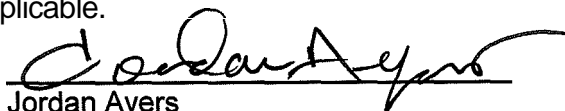
- Provide for a 46-day timeline from first billing to shut ~~off~~ (increase from 30 days allowed under current ordinance, but reduced from current practice ~~of~~ 70 days)
- Clarify language regarding customer deposits and return ~~of~~ deposits (current language does not refer to return of deposits or non-United States identification requirements)
- Increase number of terms per account per year to ~~two~~ (current ordinance allows one term per year)
- Shorten maximum length ~~of~~ term to three months (current ordinance allows six months)
- Codify language regarding current practice related to 48-hour notices (not spoken to in current ordinance but required by state regulations).

Staff has already revised the billing format to include a due date. Upon adoption of the proposed ordinance changes, staff will revise the billing system and internal practices to conform to the new language in the billing ordinance.

A redline version of the ordinance is attached.

FISCAL IMPACT: Reducing the timeline from initial billing to termination ~~of~~ services should reduce the dollar volume of bad debt accounts sent to collections. At the same time, late fee revenue is likely to also be reduced by an unknown amount if the timeline is reduced.

FUNDING AVAILABLE: Not applicable.


 Jordan Ayers
 Deputy City Manager

APPROVED: 
 Konrad Bartlam, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING LODI MUNICIPAL CODE TITLE 13 – “PUBLIC SERVICES” BY REPEALING AND RE-ENACTING CHAPTER 13.04 “SERVICE GENERALLY” IN ITS ENTIRETY

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 13 “Public Services” is hereby amended by repealing and re-enacting Chapter 13.04 “Service Generally” in its entirety, and shall read as follows:

CHAPTER 13.04 - SERVICE GENERALLY

Sections:

- 13.04.010 - Definitions.
- 13.04.020 - Application for service or discontinuance.
- 13.04.025 - Deposits**
- 13.04.030 - Bill payment and delinquency.
- 13.04.040 - Connections generally.
- 13.04.050 - Connection charges.
- 13.04.060 - Apartments and flats.
- 13.04.070 - Restriction or interruption.
- 13.04.080 - Connection or reconnection by plumbers.
- 13.04.090 - Right of access for inspection.
- 13.04.100 - Pipe and facility maintenance.
- 13.04.110 - Service only to contracted premises.
- 13.04.120 - Bill adjustment.
- 13.04.130 - Low income adjustments.

13.04.010 - Definitions.

For the purposes of this chapter the following words and phrases when used in this chapter shall have the meanings respectively ascribed to them by this section:

A. "Delinquent bills" means all accounts that have not been paid to the city within ~~twenty days after the mailing~~ **twenty-six (26) days after the issue date** of the ~~statement bill~~ for the services provided for by this chapter.

B. "Director of finance" means the person named from time to time by the city manager to be in charge of the financial records and accounts of the city.

C. "Electric connection" means all wires, insulators, conduits, fuse blocks, fuses and switches up to and including the meter used to connect the consumer's electric wiring to the city's electrical distribution system.

D. "Garbage collecting service" means that service described in Chapter 13.16 relating to garbage.

E. "Sanitary sewer tap" means all connections, valves, pipes and fittings used to connect the customer's sewer system to the city sewer mains.

F. "Service" means the supplying of water, electrical energy, the collection of garbage and the disposal of sewage.

G. "Sewage disposal service" means that service provided for in Chapter 13.12 relating to sewers.

H. "Water tap" means the connection valves, pipes and fittings used to connect the customer's water system to the city water mains.

13.04.020 - Application for service or discontinuance.

All applications for service or discontinuance of service shall be made to, **and on forms provided by**, the director of finance ~~on forms provided by him~~. The director of finance shall issue all orders for services, changes or discontinuances.

13.04.025 – Deposits.

1. Services. A deposit for the furnishing or continuance of service may be required by the director of finance. Such deposit shall not exceed the estimated amount of charges for two months' service.

2. No United States Issued Identification. In addition to a deposit for services, the director of finance may require a deposit not to exceed the estimated amount of charges for two months' services of a customer who is unable to provide a United States issued identification.

3. Length of Deposit.

a. Deposits for services shall remain on the account until twelve consecutive billing periods have passed without late charges being assessed, unless the account is discontinued prior to such event. Return of deposit amounts shall be in the form of a credit to the account, unless the account is discontinued, in which case the deposit shall be applied to the final billing and any excess shall be returned to the customer by check.

b. Deposits for no United States issued identification shall remain on the account until the account is discontinued, or until valid United States issued identification is provided. Return of deposit amounts shall be in the form of a credit to the account, unless the account is discontinued, in which case the deposit shall be applied to the final billing and any excess shall be returned to the customer by check.

13.04.030 - Bill payment and delinquency.

- A. Payment. All bills for the services enumerated in this chapter are due and payable upon receipt thereof, at the finance **division**, Lodi, California, and become delinquent **twenty** **twentysix (26)** days after the **issue** date of the bill.
- B. Delinquency. The director of finance shall send notice of delinquent bills, and if all delinquent charges for service are not paid within ten days after mailing this notice, then the director of finance may discontinue all service furnished to the customer by the city. **Within this ten day notice period, the director of finance shall provide a notice 48 hours prior to discontinuance of services.** Prior to any discontinuance of service furnished to the customer by the city, the customer **may request** the opportunity to be heard as to any adjustment or cancellation of any bill. The hearing shall be held before the director of finance or his designee. In the event of a discontinuance of service, as provided in this subsection, the director of finance may require as a condition precedent to the resumption of service that the customer pay:

1. **All amounts due and owing;;**

2. The cost to the city of discontinuing and resuming service; and

3. A deposit in an amount not exceeding the estimated amount of charges for two months' service.

The finance director may waive delinquent amounts and negotiate a repayment schedule for up to **three** months (within any twelve-month period) when in the opinion of the finance director the customer can demonstrate financial hardship. No more than two repayment schedules may be allowed in any twelve-month period.

C. Closing Bills. Closing bills are due on the date on which service is discontinued.

D. Late Charges. Delinquent bills shall be assessed a late charge which will be set from time to time by the city council. The late charge may be waived by the finance director ~~when considered to be in the best interest of the city~~ when the customer can present evidence of financial hardship or convincing information that timely payment could not have been reasonably expected.

13.04.040 - Connections generally.

No person except a duly authorized employee of the city shall make any water, electrical or sewer service connection to the city supply lines. Water and sewer tapping includes bringing the supply lines to a point six inches inside the property line. Electrical connection includes the service drop and necessary meter. On all new and reconstructed buildings where water, sewer and electrical connections are involved, the equipment and equipment locations must be approved by the inspecting authority. A service charge will be charged to the applicant when trouble calls involve customer caused service interruptions. All costs of water tapping and sewer connections shall be borne by the applicant and shall be charged at actual cost to the city. However, a flat rate may be established by the provisions of Section 13.04.050.

13.04.050 - Connection charges.

The public works director may, with the approval of the finance director, establish or change rates charged for water and sewer connections based on the average cost to the city for such connections made within the preceding six-month period.

13.04.060 - Apartments and flats.

When more than one flat, apartment, building or premises is supplied through one water tap, each occupant may pay his own water and sewage bill if flat rates apply. However, if at any time the water is used by an occupant and such fact is not reported to the city, the director of finance may require that the owner or the owners' agent-in-charge pay all the water and sewage charges applying to the flats, apartments, buildings or premises being supplied through one tap.

13.04.070 - Restriction or interruption.

The city reserves the right to limit the amount of water supplied to any customer or to different parts of the city should it appear necessary so to do, and shall not be liable for temporary discontinuance of any service while making repairs or replacements.

13.04.080 - Connection or reconnection by plumbers.

No plumber shall leave water turned on at any newly erected building unless it is by consent of the city, nor shall he connect or reconnect any service found shut off at the service stop.

13.04.090 - Right of access for inspection.

Authorized employees of the city shall have the right of access to any premises receiving any service named in this chapter at reasonable hours for the purposes of inspection.

13.04.100 - Pipe and facility maintenance.

The owner or occupant of premises where city services are supplied shall keep all service pipes, valves, connections or other facilities used in connection with such supply in good repair at all times, and the city shall not be liable for damage sustained by reason of such owner or occupant's neglect.

13.04.110 - Service only to contracted premises.

No person shall supply service to any premises other than the one to which the service contract applies.

13.04.120 - Bill adjustment.

Application for the adjustment or cancellation of a bill any consumer believes to be inconsistent with the provisions of this code or other ordinances of this city relating to water, electric, garbage and sewage services shall be made to the director of finance. Appeal from the decision of the director of finance may be made to the city manager whose decision may, upon request, be subject to a final review by the city council.

13.04.130 - Low income adjustments.

The rates for residential refuse collection service as they now exist or may hereafter be modified under this chapter, shall be reduced as established by resolution for those residential accounts in the names of persons meeting the eligibility criteria for applicable electric service discounts as provided in this title. Proof of eligibility will be required by the city to qualify for the rate adjustments provided herein.

Section 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this ____ day of ____, 2012

JOANNE L. MOUNCE
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held January 18, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

Randi Johl
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

Utility Billing

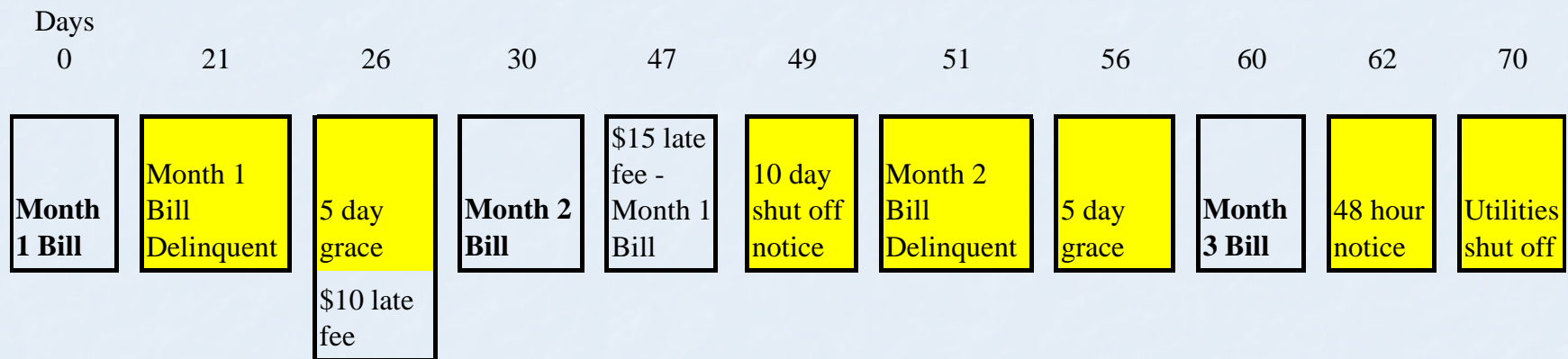
City Council
January 18, 2012

Overview

- Timelines
- Summary of Changes

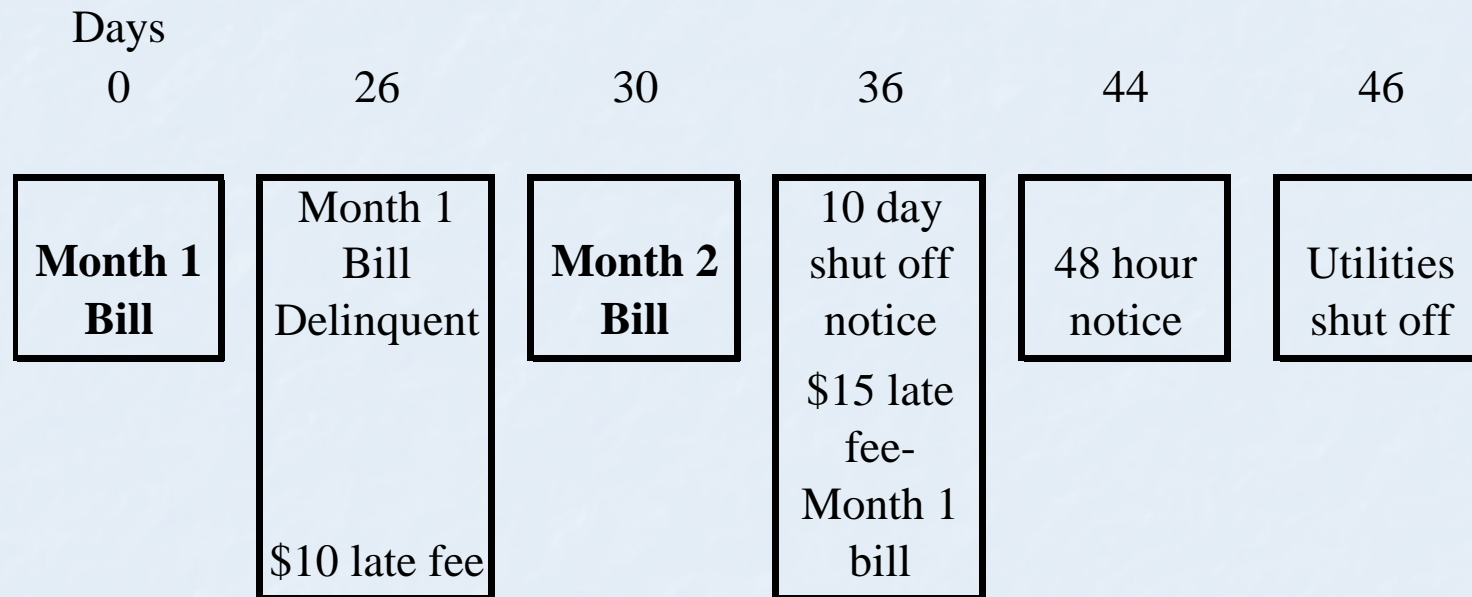
Current Timeline

(not compliant with existing ordinance)



Customer has 3 months service before services terminated
 Includes a 5 day grace period for each billing cycle
 More flexible than current ordinance language

Proposed Timeline



Provides 26 calendar days for payment

Eliminates grace period

Customer has 2 1/2 months service before services terminated

Summary of Changes

- Due Date
 - Provide for 26 days from issue date to delinquency
 - Provide for 46 days from first billing to shut off
- Deposits
 - Clarify language for Services and No US ID

Proposed Changes

■ Terms

- Allow two terms per 12-month period
- Shorten maximum length of term to 3 months (ordinance allows 6 months)

■ Notices

- Codify 48-hour notice within the 10-day notice period

Requested Action

- Introduce ordinance amending Lodi Municipal Code Title 13 – “Public Services” by repealing and re-enacting Chapter 13.04 “Service Generally” in its entirety

I-1

From: Jordan Ayers
Sent: Wednesday, January 18, 2012 2:56 PM
To: Ed Miller
Cc: Alan Nakanishi; Bob Johnson; JoAnne Mounce; Larry Hansen; Phil Katzakian; Rad Bartlam; Steve Schwabauer
Subject: RE: 1/18/2012 City Council Meeting Meeting - Agenda Item 1-01, Utility Billing Costs

Mr. Miller

The discussion regarding the ordinance and staff process is a little bit of a 'which came first--the chicken or the egg' discussion. We can set the ordinance and conform staff processes to the ordinance or set staff processes and conform the ordinance to them. We acknowledge that current processes don't match the ordinance and brought that to Council. We got a clear message from Council that the ordinance should be changed. We are bringing forward that change and will conform staff processes to the new ordinance.

I agree with you that if we had been following the 30 day timeline in the current ordinance we likely would have had a much smaller write-off of bad debt than the \$500K amount. Our lack of compliance pre-dates my tenure with the City. The ordinance changes and resulting process changes are intended to ensure that we do comply with the ordinance that will be in place.

The 46 day timeline is what we expect to operate under for shut off of utilities. The 46 days may shift if the 46th day were to fall on a day that is not a scheduled work day for the City. In that event, the shut off would occur on the next working day.

I hope this adequately responds to your concerns.

Jordan Ayers
Deputy City Manager/Internal Services Director
City of Lodi
221 W. Pine Street
Lodi, CA 95240
Phone (209) 333-6700
Fax (209) 333-6807
E-Mail jayers@lodi.gov

From: Ed Miller [mailto:ed_miller946@sbcglobal.net]
Sent: Tuesday, January 17, 2012 9:59 PM
To: Jordan Ayers
Cc: Alan Nakanishi; Bob Johnson; JoAnne Mounce; Larry Hansen; Phil Katzakian; Rad Bartlam; Steve Schwabauer
Subject: Re: 1/18/2012 City Council Meeting Meeting - Agenda Item I-01, Utility Billing Costs

Mr. Ayers,

Thank you for your response.

Yes, I am clear that the ordinance change is different than City Staff processes and procedures. However, they are inseparable.

I would make the case that this ordinance change would not even be necessary nor would a majority of the \$500K/year been lost if the City Staff had followed the currently approved City Council ordinance of 30-days to disconnect. Would customers be "gaming the system with a 30-day cycle? Probably not. This is a very serious quality issue implying the City does not have process control appropriate to be in compliance with established ordinances. Why should the Council and the citizens of Lodi have confidence that the revised process will be any better than the present one or that the process will be in compliance two years from now? If you announce in the meeting that this problem will be reviewed and resolved in a near future shirtsleeve meeting, then I would say OK.

What does "normal time line to shut-off" mean? Average, median, maximum/not to exceed? This does not sound like a commitment to a performance metric.

I will take your word that the sufficiency of the late fees will be reviewed in the near future.

I do not doubt the late fee revenue totals other than they are probably overstated because I suspect the City loses money with each late notice issued. In the shirtsleeve meeting I thought I heard you say these revenues are associated with the electrical utility only. Is that plausible? (64,000 transactions per year or 5,333 per month? - See the 12/13/2012email below)

Thank you again for taking the time and trouble to response to me.

Regards,
Ed Miller

On 1/17/2012 5:25 PM, Jordan **Ayers** wrote:
Mr. Miller

Thank you for your note. Allow me to provide the following:

1. The proposed ordinance changes do not specify the practices and procedures that will be changed to conform to the revised ordinance. I will be responsible for ensuring that our operating processes conform to the new timelines and that our on-going practices conform to the underlying ordinance. The **46** day time line is expected to be the normal time line for shut off.
2. The sufficiency of the late fees is a subject for another day. The ordinance at hand relates to the billing process. Late fees are set separately by resolution of the Council. Staff is currently reviewing these fees. The fees are automatically assessed by the billing system without manual intervention.

3. Actual Late Payment Revenue for fiscal year 2008/09 was \$838,651; for fiscal year 2009/10 \$906,609; for fiscal year 2010/11 was \$880,869; budgeted late fee revenue for fiscal year 2011/12 is \$860,000.

If you have any other questions, let me know.

Jordan Ayers
Deputy City Manager/Internal Services Director
City of Lodi
221 W. Pine Street
Lodi, CA 95240
Phone (209) 333-6700
Fax (209) 333-6807
E-Mail jayers@lodi.gov

From: Rad Bartlam
Sent: Saturday, January 14, 2012 9:44 AM
To: Jordan Ayers
Subject: **Fwd:** 1/18/2012 City Council Meeting Meeting - Agenda Item 1-01, Utility Billing Costs

FYI

Sent from my iPhone

Begin forwarded message:

From: Ed Miller <ed_miller946@sbcglobal.net>
Date: January 14, 2012 9:01:50 AM PST
To: "anakanishi@lodi.gov" <anakanishi@lodi.gov>, Bob Johnson <bjohnson@lodi.gov>, JoAnne Mounce <JMounce@lodi.gov>, "lhansen@lodi.gov" <lhansen@lodi.gov>, Phil Katzakian <PKatzakian@lodi.gov>, "rbartlam@lodi.gov" <rbartlam@lodi.gov>, "sschwabauer@lodi.gov" <sschwabauer@lodi.gov>
Subject: 1/18/2012 City Council Meeting Meeting - Agenda Item 1-01, Utility Billing costs

Mayor and Council,

To avoid a "dust-up" in next Wednesday night's Council meeting concerning Agenda Item I-01, I thought it timely to raise my concerns via email first. Generally, I have no issues with the proposed City Ordinance per se. My only observation is the process steps that make up the 46-day time line are ambiguous. In addition, is the 46-days cycle a maximum or average requirement?

My concerns are that what is proposed is incomplete unless the plan is for closure in the near future. Briefly, here are my concerns:

1. What is the corrective action to insure the Staff's process will be compliant with the ordinance's cycle time requirements in the future.
 - a. The lead problem statement in the 12/13/2011 "shirtsleeve" meeting agenda was "...the City's current billing processes do not conform to the underlying ordinance..." What is/was the root cause of the problem? How will this process drift be avoided in the future?
2. Is the City losing money with the late notice fee process particularly in light of the public's use of the process for "low cost loans?" (see email of 12/13/2011 below)
 - a. If it is, then how much is being lost in the aggregate?
 - b. What action is appropriate? Do nothing, increase fees, decrease cost of the City's process or a combination of fee increase/reduce City's cost?
3. Much was made of the \$800k income allegedly from the late notice fees. The data presented in the "shirtsleeve" meeting was not plausible at least for the Electric Utility. What are the real numbers in the clear? (see email of 12/13/2011 below)

Regards,
Ed Miller

On 12/13/2011 2:19 PM, Ed Miller wrote:

Mayor Mounce made an interesting point this morning that the \$800,000 per year cash flow to the City for electrical late fees is a moneymaker. On reflection, I doubt it.

A wild guess, from the numbers presented, is that approximately 64,000 transactions per year or 5,333 per month (using an average late fee of \$12.50 each) are required. Even discounting the 40% working the system, that is a ton of transactions. Similar to my purchase requisition/purchase order cost and cycle time question of several months ago, what is the cost and cycle time metric for the City to process late fees/notices? Can the City perform the process for less than \$12.50 each?

I assume Staff must run a report, "sanity-check" the report, perform some action(s) or transaction(s) to generate one of the two late notices, get the notices to the City's mail service, pay the mail service, pass at least one managerial review/approval, etc. City Staff hourly rate (fully loaded) has to be >\$75 per hour and the above guess of the City's process will probably add up to ~0.5-hour or ~\$37.50 per late notice (at least 6-steps @ ~5-minutes each). For the City to breakeven at \$12.50 per transaction, the above process must be

performed in –10 minutes ($\$12.50 \times 60\text{-minutes}/\75). Admittedly, the preceding is a wild guess, but the point is if the City cannot process late fees and notices for \$12.50 or less, it is losing money, not “making” money. I think this would be a relevant metric that City Staff and Council would find useful now and going forward and worth developing. You may find that the late fee schedule is too low to appropriately cover the City’s costs and discourage those working the system.

Much was made in the meeting of the need to be compassionate to electrical customers who are down on their luck and unable to pay their bills. While I agree, I also agree with the comments about the other customers experiencing hard times that somehow pay their bills and do not work the City’s system as a low cost credit bureau. Regarding a potential \$150,00-200,000 per year reduction in lost revenues/write-offs (by tightening-up the late/disconnect cycle), I appear once again out-of-phase with the City Council in that I see this as an opportunity to control costs and the savings should not be sloughed-off as “not a big deal.” People who are paying their bills deserve that at least.

Regards,
Ed Miller